

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on March 18, 2009, and the references cited therewith.

Claims 1, 6, 17-19, 23-24, and 26 are amended, and claims 10-11, 12, 21 are canceled.

The amendment to the claims is supported by the written description, claims, and drawings, as originally filed. Thus, it is respectfully submitted that the amendment to the claims does not add new matter.

Drawings

The Examiner has objected to the drawings under § 37 CFR 1.83(a) on the basis that they do not show every feature of the invention specified in the claims. Applicant traverses.

The bird deterring device as claimed may be used in conjunction with an “overhead cable”. However, the “overhead cable” is not a feature of the invention.

Further, “remote activation” refers to a method of activation the bird deterring device. As such, “remote activation” is a structural feature of the invention capable of being shown.

Based on the foregoing, Applicant respectfully submits that the drawings are compliant with § 37 CFR 1.83(a). Withdrawal of the objection to the drawings is thus respectfully requested.

§102 Rejection of the Claims

Claims 1-5,7,10-13, 15, 18-19 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Donoho (US 2004/0255837 A1). Applicant traverses.

Claim 1 includes the following limitations:

A device for deterring birds from an overhead cable, which device includes:

a clamping means for clamping the device on the overhead cable, the clamping means including

- a first member having a hook portion for hooking over the overhead cable;
- a second member to engage with the overhead cable when said cable is in the hook portion thereby to cause the clamping means to be locked to the overhead cable;
- an actuation mechanism to cause the second member to move from an un-actuated condition in which it is restrained from travel towards the hook portion to an actuated condition in which it recoils towards the hook portion through the release of energy stored in a spring thereby to engage with the overhead cable ; and
- a securing mechanism to keep the second member in the actuated condition; and

at least one vane set rotatably attached to the clamping means.

(Claim 1, emphasis added)

In the device of Donoho, the bolt 62 corresponds to the second member. The bolt 62 is displaced by a tightener 48 using a screw mechanism. Donohue discloses a self-tightening mechanism (ratchet or spring) to keep the bolt 62 in a loaded position. That Donoho discloses a spring only as a means to keep the bolt 62 in the loaded position is clear from paragraph 22 where Donohue clearly states that a ratchet is preferable to a spring to keep the bolt 62 in its tightened position. This leaves the screw mechanism as the only mechanism to move the bolt 62.

To be clear, Donohue teaches a screw mechanism to actuate the bolt 62 and a ratchet or spring mechanism to keep it in its actuated or loaded condition. In contrast, as per claim 1, the second member recoils towards the hook portion when released by the actuation mechanism. Motion through recoil is rapid, whereas motion through turning a screw is not.

Based on the forgoing, it is respectfully submitted that Donoho does not anticipate claim 1. Given that the remaining claims are either dependent on claim 1 or at least have limitations similar in scope to the above-discussed limitations of claim 1, it is respectfully submitted that these remaining claims are also not anticipated by Donoho.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of the claims under 35 U.S.C. 102(b).

§103 Rejection of the Claims

It is respectfully submitted that the combinations of references proposed by the Examiner in rejecting the claims under 35 U.S.C. 103 do not teach or suggest the above-discussed limitations. Thus, it is respectfully submitted that said combinations of references do not render the claims obvious as suggested by the Examiner. In the circumstances, the Examiner is respectfully requested to withdraw the rejection of the claims under 35 U.S.C. 103.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney on (650) 7965417 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 503437

Respectfully submitted,

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